

**ASSEMBLY BILL**

**No. 394**

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**Introduced by Assembly Members Kuehl**  
**(Coauthors: Assembly Members Dutra, Gallegos, and**  
**Villaraigosa)**  
(Coauthors: Senators Burton and Escutia)

February 11, 1999

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An act to add Section 2725.3 to the Business and Professions Code, and to add Section 1276.4 to the Health and Safety Code, relating to health care.

LEGISLATIVE COUNSEL'S DIGEST

AB 394, as introduced, Kuehl. Health facilities: nursing staff.

Existing law provides for the licensing, registration, and regulation of nurses, and sets forth the scope of practice.

This bill would prohibit a general acute care hospital, an acute psychiatric hospital, and a special hospital, as defined, from assigning an unlicensed person to perform nursing functions in lieu of a registered nurse, or from allowing unlicensed personnel under the direct clinical supervision of a registered nurse to perform certain functions.

Existing law prohibits operation of a health facility, as defined, without a license issued by the State Department of Health Services and provides for the issuance of licenses and for the regulation of health facilities and sets forth the services to be provided therein. Willful or repeated violation of these provisions is a crime.

This bill would require general acute care hospitals, acute psychiatric hospitals, and special hospitals to provide certain minimum nurse-to-patient ratios, and to adopt written policies and procedures for training and orientation of nursing staff.

By changing the definition of an existing crime this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of  
2 the following:

3 (a) Health care services are becoming complex and it  
4 is increasingly difficult for patients to access integrated  
5 services.

6 (b) Quality of patient care is jeopardized because of  
7 staffing changes implemented in response to managed  
8 care.

9 (c) To ensure the adequate protection of patients in  
10 acute care settings, it is essential that qualified registered  
11 nurses and other licensed nurses be accessible and  
12 available to meet the needs of patients.

13 (d) The basic principles of staffing in the acute care  
14 setting should be based on the patient's care needs, the  
15 severity of condition, services needed, and the  
16 complexity surrounding those services.

17 SEC. 2. Section 2725.3 is added to the Business and  
18 Professions Code, to read:

19 2725.3. (a) A health facility licensed pursuant to  
20 subdivision (a), (b), or (f), of Section 1250 of the Health  
21 and Safety Code shall not assign unlicensed personnel to  
22 perform nursing functions in lieu of a registered nurse



1 and may not allow unlicensed personnel to perform  
2 functions under the direct clinical supervision of a  
3 registered nurse that require a substantial amount of  
4 scientific knowledge and technical skills, including, but  
5 not limited to, any of the following:

6 (1) Administration of medication.

7 (2) Venipuncture or intravenous therapy.

8 (3) Parenteral or tube feedings.

9 (4) Invasive procedures including inserting  
10 nasogastric tubes, inserting catheters, or tracheal  
11 suctioning.

12 (5) Assessment of patient condition.

13 (6) Educating patients and their families concerning  
14 the patient's health care problems, including  
15 postdischarge care.

16 (7) Moderate complexity laboratory tests.

17 (b) This section shall not preclude any person from  
18 performing any act or function that he or she is  
19 authorized to perform pursuant to Division 2  
20 (commencing with Section 500).

21 SEC. 3. Section 1276.4 is added to the Health and  
22 Safety Code, to read:

23 1276.4. (a) A health facility licensed pursuant to  
24 subdivision (a), (b), or (f) of Section 1250 shall allocate  
25 sufficient numbers of registered nurses so as to provide a  
26 nurse-to-patient ratio as follows:

27 (1) One registered nurse to two patients to staff  
28 critical care units, burn units, labor and delivery,  
29 postanesthesia units, and critical patients in emergency  
30 departments requiring care in an intensive care or  
31 critical care setting. The ratio of one registered nurse to  
32 two critical care patients temporarily held in the  
33 emergency departments shall be in addition to the  
34 regularly scheduled emergency room staff.

35 (2) There shall be sufficient nursing personnel so that  
36 one registered nurse is not serving as circulating assistant  
37 for more than one operating room.

38 (3) One licensed nurse to three patients to staff  
39 pediatric and step-down/intermediate care units.

1 (4) One licensed nurse to four patients to staff  
2 specialty care and telemetry.

3 (5) One licensed nurse to six patients to staff general  
4 medical care units that include subacute care and  
5 transitional inpatient care units.

6 (b) These ratios shall constitute the minimum number  
7 of registered and licensed nurses that shall be allocated.  
8 Additional staff shall be assigned in accordance with a  
9 documented patient classification system for  
10 determining nursing care requirements, including the  
11 severity of the illness, the need for specialized equipment  
12 and technology, the complexity of clinical judgment  
13 needed to design, implement, and evaluate the patient  
14 care plan and the ability for self-care, and the licensure  
15 of the personnel required for care.

16 (c) "Critical care unit" as used in this section means a  
17 unit that is established to safeguard and protect patients  
18 whose severity of medical conditions requires continuous  
19 monitoring and complex intervention by licensed  
20 registered nurses.

21 (d) All health facilities licensed under subdivision (a),  
22 (b), or (f) or Section 1250 shall adopt written policies and  
23 procedures for training and orientation of nursing staff.

24 (e) No registered nurse shall be assigned to a nursing  
25 unit or clinical area unless that nurse has first received  
26 orientation in that clinical area sufficient to provide  
27 competent care to patients in that area, and has  
28 demonstrated current competence in providing care in  
29 that area.

30 (f) The written policies and procedures for orientation  
31 of nursing staff shall require that all temporary personnel  
32 shall receive the same amount and type of orientation as  
33 is required for permanent staff.

34 (g) Requests for waivers to this section that do not  
35 jeopardize the health, safety, and well-being of patients  
36 affected and that are needed for increased operational  
37 efficiency may be granted by the department to rural  
38 general acute care hospitals meeting the criteria set forth  
39 in paragraph (2) of subdivision (a) of Section 1250.

1 (h) In case of conflict between this section and any  
2 provision or regulation defining the scope of nursing  
3 practice, the scope of practice provisions shall control.

4 SEC. 4. No reimbursement is required by this act  
5 pursuant to Section 6 of Article XIII B of the California  
6 Constitution because the only costs that may be incurred  
7 by a local agency or school district will be incurred  
8 because this act creates a new crime or infraction,  
9 eliminates a crime or infraction, or changes the penalty  
10 for a crime or infraction, within the meaning of Section  
11 17556 of the Government Code, or changes the definition  
12 of a crime within the meaning of Section 6 of Article  
13 XIII B of the California Constitution.

